

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

2019 OCT 15 PM 3:37

UNITED STATES OF AMERICA

v.

JACOB ASHER PLOWRIGHT

CR 107-167-1

CLERK *M. Akw*
SO. DIST. OF GA.

O R D E R

On September 30, 2019, Defendant Jacob Asher Plowright filed a motion asking this Court to take judicial notice of an administrative order entered in the Northern District of Georgia, whereby it appears that criminal offenders who are potentially eligible for Davis relief are appointed a federal public defender. (Doc. No. 364.)


"Davis" refers to the recent United States Supreme Court decision in United States v. Davis, --- U.S. ---, 139 S. Ct. 2319 (Jun. 24, 2019), which announced a new rule of constitutional law. Specifically, in Davis, the Supreme Court found that the "residual clause" of 18 U.S.C. § 924(c)(3)(B) is unconstitutionally vague. The Court did not, however, invalidate Section 924(c)(3)(A), the so-called "elements" clause.

On October 7, 2019, while Plowright's motion to take judicial notice was pending, the Eleventh Circuit Court of Appeals denied Plowright's application for leave to file a second or successive petition under 28 U.S.C. § 2255(h). The Court of Appeals specifically addressed Plowright's Davis claim and concluded that

he is not entitled to Davis relief because his conviction for Hobbs Act robbery independently qualifies as a crime of violence under the elements clause, § 924(c)(3)(A), which remains valid. In re Jacob Plowright, Case No. 19-13590 (11th Cir. Oct. 7, 2019), Doc. No. 365). Accordingly, there is no reason to appoint counsel for Plowright to prosecute his Davis claim.

Upon the foregoing, Plowright's motion to take judicial notice (doc. no. 364) is **DENIED AS MOOT**.

ORDER ENTERED at Augusta, Georgia, this 15th day of October, 2019.


UNITED STATES DISTRICT JUDGE